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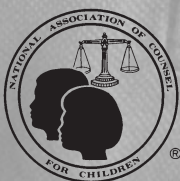
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legal remedies

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The NACC Youth Empowerment Initiative

by Colene Flynn Robinson, JD

NACC Staff Attorney

The NACC Youth Empowerment Initiative (YEI) has made enormous progress recently, both in terms of program action and fund development.

PROGRAM ACTION

The youth empowerment panel at the national conference included two former foster youth, Jennifer Rodriguez and Tonya Hightower. Jennifer and Tonya discussed their experiences with the foster care system and the outlets they have discovered for successful youth input into the legal system. They also showed multi-media videos, created by foster youth, which visually added to the message of youth empowerment.

Also at the conference, members of California Youth Connection hosted a reception for people interested in starting a youth empowerment organization in their state. If you are interested in finding out more about California Youth Connection, or how to start such an organization, visit their website at www.CalYouthConn.org.

While in New Orleans, the NACC Board of Directors took action on the Youth Empowerment Initiative by adopting new by-laws and strategic plan language. The by-laws have been changed to include an additional youth member on the Board. A candidate for the youth position shall be under 30 and shall have the personal, professional and educational interests and experience to serve as an effective youth advisor to the NACC. The purpose of the youth Board members is to act as liaison between the young people involved with the court system and the other members of the Board, and to inform the work of the NACC with their personal or collective perspectives.

The Board changed the strategic plan for the Youth Empowerment Initiative as well. The strategic plan now states:

IMPLEMENTATION ACTION 1: NACC YOUTH EMPOWERMENT THROUGH PARTICIPATION IN PROGRAM DEVELOPMENT

The NACC shall seek and consider youth input when developing new programs. The NACC shall explore avenues for obtaining maximum feedback from young people. At a minimum, at least one young person should serve on the program committee of the NACC. The youth input may include focusing on the perceived impact of such a program on young people involved with the court systems, any need for sustained programmatic youth participation, and any other relevant suggestions.

IMPLEMENTATION ACTION 2: NACC YOUTH EMPOWERMENT THROUGH PARTICIPATION IN PUBLICATIONS

Promote the notion of youth participation by including a youth participation piece in *The Guardian*, the annual children's law manual, and whenever possible in other NACC publications.

IMPLEMENTATION ACTION 3: NACC YOUTH EMPOWERMENT THROUGH PARTICIPATION IN CONFERENCES AND TRAININGS

Arrange youth and youth panel presentations at conferences, training and policy forums.

IMPLEMENTATION ACTION 4: YOUTH EMPOWERMENT THROUGH PARTICIPATION IN THE ATTORNEY-CLIENT RELATIONSHIP

Develop the concept of a "customer satisfaction" perspective in the GAL or traditional attorney relationship. This concept includes an ongoing obligation on the attorney's part to listen to and respond to the child client's expressed wishes. It also requires the attorney to make an effort to develop trust and a relationship with the child client. It is the child as a partner in the legal process, not an object of it. Move the field towards acknowledging the right of children to have input into their own cases, and to shape and influence the legal

representation they receive. Hold individual attorneys accountable for incorporating these principles in their practice. Support other groups who endorse this model, and actively present this position nationally when possible, through amicus curiae cases, policy initiatives, standards of practice, and other areas.

**IMPLEMENTATION ACTION 5:
YOUTH EMPOWERMENT THROUGH
PARTICIPATION IN SYSTEMIC CHANGE**

Promote and support successful youth organizations involved in systemic change to ensure youth input at both the individual case plan and the system level. National attention increases youth organizations' exposure, credibility, and stabilization. Collect information about successful organizations or models and distribute nationally. Support the potential national expansion of successful youth empowerment and advocacy organizations. Partner and collaborate with such organizations, including California Youth Connection, Center for Young Women's Development, Sisters for Change, Massachusetts Families for Kids Speak Out Team, NYC Voices for Youth. Act as a resource to emerging youth advocacy organizations. Promote and support examples of systemic change achieved through youth involvement. Examples of change achieved include CYC youth's advocacy for legislation establishing a foster care bill of rights, support for former foster youth, expanded transitional housing, a foster care ombudsman program and increased protection for sibling relationships.

FUND DEVELOPMENT

The NACC is pleased to announce the creation of the Megan Louise Furth Youth Empowerment Fund. This fund was created on September 1, 2003 to honor the life of Megan Louise Furth. Megan Furth was a remarkable young woman who died July 30, 2003 at the age of 31. Megan was an example of the brilliance and power of youth. From a very young age, Megan showed the promise to become the scholar, teacher, writer, and athlete she became. Her young life was a testament to the value and contributions that youth make to society when given an opportunity to participate. The Megan Louise Furth Youth Empowerment Fund will be used to sponsor the Youth Board Members, bring youth panels to the conference, and fund other youth work in connection with the strategic plan. The fund currently has a donation of \$25,000, and any funds donated in the next year will be matched by our donor, Donna Wickham Furth. Please consider donating to this fund. For more information, a donation description follows this page.

MEMBER ACTION

Members can play a very important role in the YEI. Consider nominating young people for the NACC Board or the Program Committee. Encourage young people to submit articles for publication in the Guardian, or let us know of talented youth so we can solicit work from them. Let us know about youth organizations in your area working for systemic change. For more information about the work of the YEI, check our website and look for the next YEI column in *The Guardian*.

NACC – Referral Network

The NACC office receives many requests for legal services. Because the NACC does not provide direct legal services, we need to refer these people to counsel. Please fill out the following form and return it to the NACC so that we can include you in our referral network. Non-attorneys are also asked to participate.

AREAS OF PRACTICE:

- abuse, neglect, dependency
- delinquency, status offenses
- custody, visitation
- child support
- adoption
- Other:
- guardianship, conservatorship
- civil litigation
- mental health
- health care
- jurisdiction

I will consider *pro bono* referrals.

NAME _____

ADDRESS _____

CITY / STATE / ZIP _____

AREA CODE / PHONE NUMBER _____

AREA CODE / FAX NUMBER _____

E-MAIL _____

OCCUPATION _____

Megan Louise Furth

YOUTH EMPOWERMENT FUND



PURPOSE The NACC Megan Louise Furth Youth Empowerment Fund was created to honor the life of Megan Louise Furth by promoting the Youth Empowerment Initiative of the National Association of Counsel for Children. Megan Furth was a remarkable young woman who died July 30, 2003 at the age of 31. Megan was an example of the brilliance and power of youth. From a very young age, Megan showed the promise to become the scholar, teacher, writer, and athlete she became. Her young life was a testament to the value and contributions that youth make to society when given an opportunity to participate. The NACC Youth Empowerment Initiative was created to

develop the concept of children and youth as valuable persons and citizens with inherent legal and human rights. The NACC, a non-profit charitable national child advocacy organization, strives to serve this goal by promoting youth participation both in NACC decision-making and in the societal and governmental structures that affect young people. Youth serve on the NACC Board of Directors, teach at NACC trainings, and participate in the operation of local and national child welfare systems. The Megan Louise Furth Youth Empowerment Fund supports that work.

CREATION The Megan Louise Furth Youth Empowerment Fund was created on September 1, 2003 by Megan’s mother, Donna Wickham Furth, with an initial contribution of \$25,000 and a promise to match, dollar for dollar, contributions made to the fund during its first year, giving donors an opportunity to double the impact of their contributions to the NACC.

USE The fund will be managed by the NACC and supervised by the NACC Development Committee. Funds will be used to support youth participation in empowerment program activity including paying youth travel and lodging expenses for meetings and trainings.

CONTRIBUTE Contributions to the Megan Louise Furth Youth Empowerment Fund are tax deductible, and may be made by check or credit card via phone (888-828-NACC), fax (303-864-5351), email (advocate@NACCchildlaw.org), or online (www.NACCchildlaw.org/about/donate.html). Please make checks payable to “NACC MLF Fund.”

.....

Enclosed is my contribution to the NACC Megan Louise Furth Youth Empowerment Fund.

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Cases

COUNSEL FOR CHILDREN'S ROLE DEFINED

Supreme Judicial Court Of Massachusetts Finds Children's Counsel Acted Properly By Not Advocating For Their Wishes And Such Advocacy Did Not Present Conflict Of Interest. Care and Protection Of Georgette, 785 N.E.2d 356 (2003).

Following a termination of parental rights case, two of several siblings brought an ineffective assistance of counsel claim against their appointed counsel for failing to advocate their expressed preference of returning to their father. They also claimed a conflict of interest, based on counsel's representation of a sibling who did not wish to return to their father. The Supreme Judicial Court affirmed the decision of the appeals court which dismissed the claims.

In the TPR, the trial court terminated the father's rights as to two daughters, Beth and Judith. Two other daughters, Georgette and Lucy, were placed in the permanent custody of the Department of Social Services (DSS). The foster care placement of another child, Rena, was not contested. Georgette and Lucy appealed, asking for a new trial. The facts underlying the court's finding of the father's unfitness were clearly established and undisputed.

In their appeal, Georgette and Lucy claimed that counsel represented multiple clients having conflicting interests during trial, which constituted an actual conflict of interest, and did not express their stated preference, which was to return to their father's custody. The appeals court found that Georgette and Lucy were not entitled to relief because even if their trial counsel had provided substandard representation by not advocating their wishes, they suffered no prejudicial harm because the overwhelming evidence against their father would not have been overcome, no matter how zealous the advocacy.

The supreme court affirmed the appellate court finding that the evidence proving the father's unfitness was overwhelming. Moreover; because the trial court was well aware of Georgette and Lucy's desire to return to his custody, the girls suffered no harm.

The conflict allegation concerned the representation of Georgette and Lucy at the same time as representation of Rena. Rena did not want to return to her father, which the girls claimed created an actual conflict because Georgette and Lucy did. Rena's father did not contest her continuation in foster care at trial, so no actual conflict existed because Rena's custody was not a disputed issue.

The court chose to continue its analysis of the role of minor's counsel when representing multiple siblings of different ages and competency. The court examined the conflict created when counsel chooses to zealously advocate for a position opposed to by the child. In analyzing counsel's ethical duties in such situations, the court examined, among other sources, the Massachusetts Rules of Professional Conduct, the Committee for Public Counsel Services' performance standards, the ABA Standards of Practice for Lawyers who Represent Children in Abuse and Neglect cases, the American Law Institute in the Restatement of the Law Governing Lawyers Section 24, the National Association of Counsel for Children's Recommendations for Representation of Children in Abuse and Neglect Cases, and publications by Donald Duquette and Christopher Wu, NACC Board members.

After a lengthy discussion of the various standards, the court acknowledged that each state must clearly articulate the role of minor's counsel or risk lowering the standard of representation overall.

Hesitant to make such policy determinations, however, the court referred the matter to the standing advisory committee on the rules of professional conduct for the development of suitable standards. In the meantime, the court advised counsel to follow the Committee for Public Counsel Services performance standards, which require counsel to adhere to the normal attorney-client relationship, unless the child is incapable of stating a preference or making an "adequately considered decision and counsel determines that the child's expressed preference places the child at risk of substantial harm." In those circumstances, counsel must present the child's stated wishes to the court, but can also request the appointment of GAL.

Thank you to NACC member Susan Dillard for identifying this case.

GAL MUST ASCERTAIN CHILD'S WISHES

Ohio Court of Appeals Upholds TPR As In Child's Best Interests When GAL Did Provide Court With Information Regarding Child's Wishes. In the Matter of R.H., 2003 Ohio App. LEXIS 1658 (2003). (The actual case name includes the full name of the child, which the NACC has redacted. Please find this case by searching the citation or contacting the NACC).

Helen S., the mother of the minor child R.H., appealed from a decision terminating her parental rights, claiming, in part, that the trial court had not considered what was in the child's best interests because it failed to consider what the child wanted.

In October 2000, the court sustained a petition alleging that R.H.'s parents, Helen S. and Peter H., engaged in domestic violence, and that the mother suffered from depression and was unable to take care of

herself. The Department requested and received protective supervision. The dispositional order required the mother to obtain a mental health assessment, attend parenting classes, live apart from the father, and obtain stable employment.

In August 2001, the mother was found to be in contempt of the case plan and temporary custody was granted to the Department. The revised service plan required mother to attend counseling, maintain employment, maintain stable and appropriate housing, and contribute to the child's financial support. When neither parent succeeded with the treatment plan, in October 2002, the trial court held a permanent custody hearing and terminated the parents' parental rights.

Among other issues raised on appeal, Helen S. challenged the TPR because the Guardian *ad litem* failed to present the child's wishes, as required by statute. The statute states that at a permanency hearing, the court shall consider the best interests of the child, including the "wishes of the child as expressed directly by the child or through the child's Guardian *ad litem*, with due regard for the maturity of the child". The juvenile court found that the child was only 3½ years old and the child was either unable or unwilling to express her wishes.

The appellate court found that the requirement that a child's wishes be ascertained is mandatory and must be scrupulously observed. In fact, a trial court's failure to discuss the child's wishes, despite her young age, is reversible error. In this case, however, the appellate court found that because the juvenile court had the Guardian *ad litem*'s report, which discussed her efforts to ascertain the child's wishes, and the child's statement on one occasion that she wanted to live with her foster parents, this constituted enough evidence to meet the burden of the statute. The court stated that the lower court should have referenced this evidence in making its findings, but the failure to do so was not reversible error.

GAL NOT LIABLE FOR MALPRACTICE

Court Of Special Appeals Of Maryland Finds GAL Not Liable When Acting As Agent Of Court. Fox v. Wills, 822 A.2d 1289 (2003).

While the parties divorce case was pending, the minor child was sexually abused by the father during a supervised visit. Following the case, the mother, Katherine Fox, sued the Guardian *ad litem* for malpractice. When the trial court granted the GAL's motion to dismiss, Katherine appealed. She raised two questions: Does a GAL owe a duty to his/her minor client, such that he/she could be subject to malpractice liability? And is a GAL entitled to some form of immunity from suit?

The GAL was appointed during the party's divorce. The child's mother brought the malpractice suit against the GAL, alleging that he failed: to prevent an incident of child sexual abuse which experts had predicted; to ensure that court ordered supervision occurred during visitation; to investigate the report of sexual abuse or report it, and tried to suppress investigation of it during trial. Throughout the case, the GAL showed unaccountable bias in favor of the father, including objecting to expert testimony regarding the supervision, trying to suppress another mental health expert's report of the father's psychological issues, including sexual and sadistic tendencies, and failing to address or account for numerous reports of father's inappropriate, dangerous behavior during visits. The GAL also rebuffed many attempts by the families of the father and the mother to provide him with information about the child and the family's level of functioning.

The appellate court first examined in which type of role the GAL had been assigned. In Maryland, minor's counsel can be appointed to serve different roles: 1) the *Nagle v. Hooks* attorney; 2) Guardian *ad litem*; or 3) investigator. A *Nagle v. Hooks* attorney guards the minor's privilege of nondisclosure, guided by best interests, while an investigator gives an investigative report to the court, with or without recommendations. The court noted that an attorney representing a child can provide waiver, pure representation, pure investigation, or a combination, based upon clear directions from the trial court. As a Guardian *ad litem*, the typical GAL should act as a combination of advocate for the child and investigator, making a best interest recommendation to court. The court discussed the history of the development of these roles in Maryland and other states.

In the case at hand, the court found that the attorney had been appointed as GAL, not as a pure advocate, and was immune from liability. While the court noted that "negligently reporting to the court and making a recommendation that is not in the child's best interest, not speaking to the child's therapist when there are allegations of abuse, or choosing not to bring the therapist's concerns to the court, could be categorized as negligent and even reckless actions in some instances." The court, however, concluded that because the GAL acted as an arm of the court and performed judicial functions, he was immune from liability, even if he acted negligently. On the contrary, the court noted that an attorney appointed to represent the child's wishes would not receive immunity from his or her negligent acts.

AGGRAVATED CIRCUMSTANCES DEFINED

New Jersey Superior Court, Appellate Division, Found Father's Severe Beating Of Child With Belt, Combined With Evidence Of Repeated Instances Of Physical Abuse, Constituted Aggravated Circumstance. In The Matter Of C.R.G., R.L.G. and A.J.G., 824 A.2d 213 (2003).

The respondent father, A.R.G., appealed from an order excusing the Division of Youth and Family Services (DYFS) from providing him with reunification services following a finding of aggravated circumstances of abuse.

The three subject children, C.R.G., R.L.G. and A.J.G., are boys, aged 16, 10, and 9. They lived with their mother in Florida until she died in a car accident in 1998. The children then went to live with their father and paternal grandmother in New Jersey.

In May 2002, a school nurse called to report numerous bruises on the arms, back and buttocks of R.L.G., who stated they came from a beating by his father. A DYFS worker went to the school and met with the nurse and child. The worker observed over 22 severe bruises on the child's body, which he told her his father inflicted with a belt after the child received a poor progress report. The DYFS worker also spoke with the child A.J.G., and the children's paternal grand-

mother; N.G. Both confirmed the beating by the father; A.R.G. R.L.G. was taken to the hospital, where doctors confirmed he had suffered at least 5 to 6 beatings on his body, and that the healing wounds would probably leave scars.

The children were removed from the home and placed in foster care, based on the father's physical abuse, and the paternal grandmother's awareness of the abuse and her failure to prevent it. Upon consent, the children were placed with their maternal grandparents in Florida.

The matter was set for trial. Counsel for DYFS sent notice to all counsel of its intent to seek a finding under N.J.S.A. §30:4c-1 I.3(a) that no reasonable efforts to reunify were required based on aggravated circumstances. To make such a finding, the court must determine that the parent has subjected the child to "aggravated circumstances of abuse, neglect, cruelty or abandonment... or committed or attempted to commit an assault that resulted or could have resulted in significant bodily injury to a child." N.J.S.A. §30:4c-1 I.3(a).

At trial, the court, upon reviewing the evidence, including the caseworker's testimony, the medical records, and over 20 photographs, found that the three children were victims of abuse or at risk in the care of their father. It also found that DYFS had shown, by clear and convincing evidence, that R.L.G. had been subjected to aggravated circumstances of abuse and cruelty. The court excused DYFS from providing reunification services for all of the children and scheduled the matter for a permanency hearing.

Before the permanency hearing, A.R.G. filed a motion for rehearing or reconsideration of the reunification efforts finding. The court denied the motion, and granted the permanency goal of termination of A.R.G.'s parental rights and adoption by the maternal grandparents.

A.R.G. appealed the trial court's finding that he had subjected the children to aggravated circumstances of abuse, neglect or abandonment. The appellate court examined the legislative history of the Adoption and Safe Families Act (ASFA), the federal law which relieves states of the obligation to provide services after a finding of aggravated circumstances, and

turned to the state's definition of "aggravated circumstances". Although ASFA left it to states to define aggravated circumstances, the New Jersey legislature did not. The appellate court examined other states' definitions of aggravated circumstances. Many states adopted the federal language that aggravated circumstances may include, but not be limited to: "abandonment, torture, chronic abuse and sexual abuse". 42 U.S.C.A. §671 (a)(15)(D)(i). The court went on to review many state statutes and case law that went beyond the federal language.

The court then held that when severe child abuse or neglect happens of "a singular, chronic, recurrent or repetitive nature, where the circumstances created by the parent's conduct create an unacceptably high risk to the health, safety and welfare of the child, they are aggravated", relieving the department of the obligation to provide reasonable efforts of reunification.

In reviewing the record, the court agreed that the continuous, ongoing nature of A.R.G.'s physical abuse of the child, coupled with the severity of the beating, constituted aggravated circumstances.

SAME SEX ADOPTION

Indiana Court of Appeals Allows Adoption By Two Lesbians. In re Adoption of M.M.G.C., H.H.C., and K.E.A.C., 785 N.E.2d 267 (2003).

Amber Crawford-Taylor ("Amber") appealed from the decision of the trial court denying her petition to adopt the three children that her domestic partner had adopted. The question before the court was whether the second woman could adopt the children without divesting the first mother of her parental rights. The appellate court overruled and remanded the case.

In 1999, Shannon Crawford-Taylor ("Shannon"), adopted two children from Ethiopia — H.H.C. and M.M.G.C. In that same year, she also adopted K.E.A.C. from China. At the time, Shannon was living with her partner, Amber. Shannon adopted all three children internationally, according to the laws of the country where the children resided. She was the only one listed on the international adoptions as the parent.

In 2000, Shannon and Amber both petitioned the trial court to adopt all three children: the trial court denied the petitions, finding that the foreign adoptions must be granted domestically without any modifications.

On March 29, 2001, Shannon filed petitions requesting comity and full faith and credit for the foreign adoptions, and the next day Amber filed petitions to adopt the children as a second parent. Thereafter, Shannon filed a consent to Amber's adoption petitions. In June 2001, the trial court accepted Shannon's three international adoptions, but took Amber's petitions under advisement. Not until July 2002 did the court deny Amber's petition, because she was not a legal relative of Shannon Crawford, and they could not legally marry. The trial court reasoned that the only way for Amber to adopt would be to terminate Shannon's rights, which the parties clearly did not intend.

The appellate court reversed. The court began by noting that there is no requirement under Indiana law that the party petitioning for adoption be a legal relative of the child's adoptive parent. Next the court reasoned that only the rights of a child's biological parent are divested by an adoption, except in the case of stepparent adoption. In this case, Shannon is not the children's biological parent, and therefore, her rights need not be divested.

The court concluded that the legislature intended to promote the best interests of the children, and provide early, permanent stability — particularly the benefits of having two parents. The court found that because the statutory requirements were met — namely, that the other parent had consented, the adopting parent had the ability to rear the children, and it was in the children's best interests, the court remanded for the trial court to approve the adoptions by Amber.

SEX OFFENDER REGISTRATION ACT APPLIES TO JUVENILES

Illinois Supreme Court Rules 12 Year Old Must Register For Life Under Sex Offender Registration Act. In re J.W., 787 N.E.2d 747 (2003).

A 12 year old, after admitting to two counts of aggravated criminal sexual assault, constitutionally challenged the probation

requirement that he register under the Sex Offender Registration Act and be barred from his home town, on the basis of substantive due process, double jeopardy, and cruel and unusual punishment.

In 1999, the state filed a petition alleging J.W. was delinquent for committing aggravated criminal sexual assaults against two 7 year old boys. In February 2000, J.W. pled guilty to two counts of aggravated criminal sexual assault. At his sentencing hearing, J.W.'s parents indicated that if J.W. were allowed to return home, they would sell their home and move to another area. A Child Advocacy Center investigator, and J.W.'s therapist, testified to the ongoing nature of the sexual assaults upon the 7 year olds, J.W.'s need for intensive supervision, and the level of his dangerousness to himself and others. The trial court ordered that after residential treatment, J.W. was to reside with his aunt until his parents could move out of South Elgin, placed him on five years probation, and ordered him to register as a sex offender. J.W. appealed the court's decision that he must register as a sex offender for the rest of his life. The Illinois Supreme Court found that under the statute, any person adjudicated a juvenile delinquent as a result of committing aggravated criminal sexual assault, is required to register under the Sex Offender Registration Act. Accordingly, the trial court correctly ordered J.W. to register. Turning to the substantive due process claims, the court concluded that because no fundamental rights were at stake, the rational basis test applied. The Illinois Supreme Court had previously rejected a substantive due process claim regarding the Sex Offender Registration Act, holding that the state's purpose in facilitating law enforcement and protecting children from known child sexual offenders was not unreasonable. In turning to the case of J.W., a 12 year old, the court found nothing different in the rationale behind the public interest in requiring juveniles to register. J.W. did not contest the public interest behind the registration requirement, but noted that in the case of juveniles, who are considered

less culpable than adults and more amenable to rehabilitation, the purposes of the Act are at odds with the purpose and policy of the Juvenile Court Act. The Supreme Court noted the validity of J.W.'s arguments, but concluded that the Juvenile Court Act had been amended to reflect a shift in its purpose from rehabilitation to protecting the public from juvenile crime and holding juveniles accountable for their actions. Accordingly, registration was consistent with the purpose of the Juvenile Court Act. Noting the strict limitations on access to the information contained in the registry, and the rational relationship between the registration of offenders and the public interest, the court rejected J.W.'s substantive due process argument.

Turning to his Eighth Amendment arguments, the court concluded that these arguments lacked merit given the limited access to the information regarding juveniles on the registry. Similarly, because the court did not view the registration requirement as punishment, it rejected the double jeopardy arguments.

While noting that banishing J.W. from his home town impacted his constitutional rights, the court upheld this condition of his probation because it believed it was an affirmation by the court of the family's desire to move, given the publicity of the case and the hostility of the community. Banishing J.W. from ever entering South Elgin for any purpose, however, was over-broad and unconstitutional. The court vacated that portion of the trial court's order, and remanded the case for the trial court to consider under what circumstances J.W. might travel to South Elgin.

A strong dissent follows the opinion.

NEGLECT ORDER JUSTIFIES SEARCH

D.C. Court of Appeals Found Search Constitutional When Conducted While Taking Child Into Custody Pursuant To Neglect Custody Order. In re J.O.R., 820 A.2d 546 (2003).

Defendant, J.O.R., appealed from a warrantless search conducted when police

officers attempted to execute a neglect custody order:

J.O.R, 16, was playing basketball on a public court when an officer aware of an outstanding Family Court custody order directing his apprehension approached him. The officer, who knew J.O.R., knew that previous attempts to take him into juvenile custody had failed. When the officer approached, J.O.R. attempted to flee. The officer, along with other backup officers, attempted to apprehend J.O.R. In his efforts to get away, J.O.R.'s coat was pulled off. As the officer and J.O.R. fell to the ground in the struggle, the officer "checked his pockets". The officer recovered twenty-two Ziploc bags of cocaine from J.O.R.'s pockets.

J.O.R, on appeal, argued that the purpose of taking a child into neglect custody is different from arresting someone suspected of having committed a crime, making the search unlawful. He also contended that the search far exceeded a pat down that might be permissible in other circumstances, and that a subsequent inventory or administrative search also didn't justify the search.

The court concluded that a full search is justified when taking someone into custody, whether as a suspected criminal or under a neglect custody order. Searches are permissible when taking someone into custody because the prolonged exposure of the police officers to the suspect increases their exposure to risk. In addition to the safety concerns for the police, the court noted that J.O.R.'s placement in short order with other juveniles put those children at risk as well.

Accordingly, the court found that it is not the reason for taking someone into custody that poses the risk justifying the search, it is the fact of taking someone into custody. No matter the circumstances, a person's liberty is being restrained, thereby creating a situation in which people might react differently, potentially creating a safety risk. The court affirmed the trial court's ruling that the search was lawful.

GUARDIAN CASES — NOTICE TO READERS

Decisions reported in *The Guardian* may not be final. Case history should always be checked before relying on a case. Cases and other material reported are intended for educational purposes and should not be considered legal advice.

Cases reported in *The Guardian* are identified by NACC staff and our members. We encourage all readers to submit cases.

If you are unable to obtain the full text of a case, please contact the NACC and we will be happy to furnish NACC members with a copy at no charge.



Federal Policy Update *by Miriam A. Rollin, JD*

FY 2004 FUNDING

As described in previous *Guardian* policy updates, on February 3, President Bush released his proposed FY04 Federal Budget, and related legislative proposals. Most child welfare programs would be kept at — or close to — current funding levels (Child Welfare Services, Child Abuse Prevention and Treatment Act, and the Social Services Block Grant). However, the Promoting Safe and Stable Families program would be funded at the authorized level (\$505 million, which is \$100 million above the FY03 level); similarly, the Independent Living education voucher program would be funded at the authorized level (\$60 million, which is an \$18 million increase from the FY03 level).

In the Education Department budget, proposals would cut after-school investments by 40% (from \$1 billion to \$600 million) — a dangerous prospect from a delinquency prevention perspective. In fact, as to delinquency: in the Department of Justice, the proposed budget would *eliminate* the newly-authorized (and newly-improved) \$249 million ('02 level) Juvenile Accountability Block Grant (JABG) program, and would fund the Title V Delinquency Prevention Grants program at \$77 million (\$95 million had been the level for '02 and for several years prior).

On April 11, the House and Senate (on largely party-line votes) adopted a final FY04 Budget (House/Senate Conference Report version) that included funding levels similar to those in the President's proposed budget. Then, in late June, the House and Senate Appropriations Committees voted out an FY04 appropriations bill (H.R. 2660, S. 1356) for the Departments of Health and Human Services (where the child welfare programs are housed) and Education

(where the after-school program is housed). The House passed that Appropriations bill in mid-July, although the full Senate has not yet completed action on it.

The House and Senate HHS/Education appropriations bills adopted the President's proposals to level-fund most child welfare programs, although the bills failed to include the President's proposed increases in Promoting Safe and Stable Families and the Independent Living Vouchers. Fortunately, both the House and Senate bills rejected the proposed 40% cut in after-school program funding, but no new funds were provided to enhance the quality of local after-school activities or to reach more eligible kids.

In late July, the House passed the Justice Appropriations bill for FY04 (H.R. 2799). The House bill restores most of the President's proposed cut in Title V (Delinquency Prevention) funding (the House level is \$92 million), but restores only \$100 million for the JABG program (previously funded at \$249 million). On September 4, the Senate Appropriations Committee adopted a Justice Appropriations bill for FY04 (S. 1585). The Senate bill funds the Title V Prevention Program at only \$50 million (half of which is earmarked for alcohol abuse prevention), and fails to provide any funding for the JABG program.

The HHS/Education appropriations bill is now being considered on the Senate floor; and the Senate will soon take up the Justice funding bill.

PRESIDENT'S PROPOSED FOSTER CARE BLOCK GRANT

The most potentially damaging proposal in the child welfare part of the President's

proposed budget is a proposal for "optional" state block grants for foster care under Title IV-E. This would allow states to elect "fewer administrative burdens" and "flexible grants", in exchange for losing the open-ended entitlement — and child protection guarantee — nature of Title IV-E. (Under current law, states get federal foster care reimbursements for however many children are eligible, and states must abide by certain federal requirements as to how they address the needs of those children.) There is still no proposed legislation on this child welfare proposal yet (just some vague descriptions), so we have more questions than answers about it, at this point. Foster care block grant legislation could be introduced in Congress shortly; the House could move the legislation forward this year, although Senate action before 2004 is extremely unlikely.

SOCIAL SERVICES BLOCK GRANT

The Social Services Block Grant, despite its generic and unappealing name, is the largest single source of federal support for child welfare services (bigger than "Child Welfare Services", or "Promoting Safe and Stable Families", or CAPTA funds); further, child welfare expenditures are the biggest category of SSBG spending (other categories include child care, youth services, senior services, etc.). Restoration (over two years) of the Social Services Block Grant (SSBG) program from the current level of \$1.7 billion to the previously-authorized level of \$2.8 billion is included in the latest incarnation of the federal "faith-based initiative" legislation in the Senate (S. 476, a bi-partisan bill), which was approved by the Senate on 4/9/03, with a vote of 95-5. Companion legislation in the House — H.R. 7, which includes

the charitable contribution deduction for non-itemizers provision, but not the SSBG restoration provision — is scheduled to be marked-up in the House Ways and Means Committee on September 9. Also pending in (awaiting action by) the House Ways and Means Committee is H.R. 1858, the Social Services Block Grant Restoration Act, introduced on April 29 by Rep. Nancy Johnson (R-CT) and Rep. Sander Levin (D-MI), which also restores SSBG to the \$2.8 billion level. H.R. 1858 is cosponsored by several other key members of the Ways and Means Committee — who should therefore support SSBG restoration to \$2.8 billion as part of H.R. 7 mark-up September 9 — including: Rep. Camp (MI), Rep. English (PA), Rep. Houghton (NY), and Rep. Ramstad (MN).

CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA)

CAPTA reauthorization legislation (which had gone through the House of Representatives last year, and had gone through Senate Committee but had not been enacted) was back on the Congressional “plate” this year. The Senate passed a CAPTA reauthorization bill (S. 342) by unanimous consent on March 19, and the House passed its CAPTA reauthorization bill, H.R. 14, on March 26. The bills make only modest changes (including some improvements) in the CAPTA programs; the bills add to the GAL requirement that a GAL “has received training appropriate to the role” — a positive change. This final

House/Senate conference report version was approved by both the House and Senate in mid-June, and enacted as Public Law 108-36.

WELFARE/CHILD LEGISLATION, FAMILY OPPORTUNITY ACT

Welfare Reform (TANF) and Child Care (CCDBG) Reauthorization: As noted in the last *Guardian* update, the House passed legislation to reauthorize these programs (H.R. 4) in mid-February. The Senate Committee on Health, Education, Labor and Pensions — which has jurisdiction over the discretionary CCDBG funding authorization — reported out reauthorization legislation (S. 880) in April. The TANF/Mandatory CCDBG part of reauthorization is expected to be marked-up in the Senate Finance Committee on September 10. After the Finance Committee reports out their bill, it will be joined with S. 880, and considered on the Senate floor. At the same Senate Finance Committee meeting on September 10, the Family Opportunity Act will be marked up; this legislation will provide assistance for states to enable adoptive parents of special needs children to purchase (on a sliding-fee scale) Medicaid health coverage.

CRIMINAL CHILD ABDUCTION AND CHILD SEXUAL EXPLOITATION

On April 30, President Bush signed into law a bill (S. 151) that included “Amber

Alert” provisions, enhanced crimes and penalties against child sexual exploitation, etc.; the bill became Public Law 108-21.

RUNAWAY/HOMELESS YOUTH, MISSING CHILDREN REAUTHORIZATION

On May 20, the House voted 404-14 to pass H.R. 1925 — a bill to reauthorize programs under the Runaway and Homeless Youth Act and the Missing Children’s Assistance Act. A Senate companion bill, S. 1451, was introduced in late July by Senators Hatch (R-UT) and Leahy (D-VT). Senate Judiciary Committee mark-up is expected on September 11.

LIFESPAN RESPITE CARE

The Lifespan Respite Care Act, to assist families in accessing affordable respite care (S. 538) passed the Senate by unanimous consent on 4/10/03; and H.R. 1083, a House bill on the subject, was introduced March 5, 2003; there has been no further action in the House.

OTHER LEGISLATION OF INTEREST

There has been no Committee or floor action on the following:

- The Mentally Ill Offender Treatment and Crime Reduction Act (S. 1194), which provides a modest new funding authorization to foster local collaborations to ensure that mental health treatment is provided in appropriate settings, thereby

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avoiding unnecessary and ineffective use of criminal and juvenile justice system resources (S. 1194 was introduced by Sen. DeWine (R-OH) in early June, and a Judiciary Committee hearing was held in late July; Senators Hatch (R-UT) and Leahy (D-VT) — leading Judiciary Committee members — are among the cosponsors; a House companion bill, H.R. 2387, has also been introduced);

- Legislation to amend Title IV-E of the Social Security Act to provide equitable access for foster care and adoption services for Indian children in tribal areas (H.R. 443, S. 331);
- The Child Protection and Alcohol and Drug Partnership Act (S. 614, introduced 3/13/03 by Senators Snowe and Rockefeller);
- The Adoption Equality Act, to promote the adoption of children with special needs, by “de-linking” eligibility from the old AFDC standards (S. 862, introduced 4/10/03 by Senators Rockefeller and DeWine);

- The Child Protective Services Improvement Act (H.R. 1534, introduced 4/1/03 by Representatives Miller and Cardin as an alternative to the Administration-proposed foster care block-granting);
- A bill to provide for the protection of unaccompanied “alien” children, including ensuring access to counsel (S. 1129, introduced by Sen. Feinstein (D-CA) and a bi-partisan group of cosponsors on May 22, and referred to the Judiciary Committee);
- Legislation to revise the Indian Child Welfare Act (H.R. 2750, introduced on 7/15/03);
- Several bills providing for loan forgiveness for personnel in the child welfare system (for social workers: S. 409 by Senators DeWine and Rockefeller; and House companion bill H.R. 734; for attorneys: S. 407 by Senators DeWine and Rockefeller; and for child welfare workers, certain teachers, nurses, etc.: H.R. 1306 by Rep. Miller);

- A bill (H.R. 2437, the Child Protective Services Workforce Improvement Act), sponsored by Rep. Stark, inter alia, to provide grants to state child welfare systems to improve quality standards and outcomes, and to authorize loan forgiveness to certain students who choose to become child welfare workers; and
- A bill (H.R. 1378) to amend Title IV-E of the Social Security Act to increase payments to States for expenditures for short term training of staff of certain child welfare agencies (introduced March 20, 2003 by Rep. Weller).

Don't forget: you can use the web to “surf” bills, committee reports, floor debate and votes, committee assignments, etc. Just go to thomas.loc.gov and you'll find what you need! Also, the U.S. Capitol Switchboard (to contact any Senator or Representative) can be reached at (202)225-3121.

NACC Practice Tips

WHEN CLIENTS LIE IN CHILD CUSTODY CASES

by Leon A. Rosenberg, Ph.D.

Clinical Psychologist, Johns Hopkins University School of Medicine

When a parent is struggling with a custody/visitation battle, and is forced to submit to an evaluation by a mental health specialist, the parent certainly wants to present well. You should not expect a parent to be totally open and completely honest. You expect them to exaggerate what they see as their best points and avoid or gloss over deficiencies. But when they have done something they feel can seriously be held against them, they may lie. I have had three recent cases where parents lied to me about their personal (i.e., romantic) relationships with new partners occurring after separation from their spouses. From each parent's point of view, the results were disastrous. Not because I “caught” them lying. On the contrary, I was completely fooled. The other side, however, managed through their investigations to admit evidence that these relationships existed, which

allowed the attorneys to present hypotheticals to me during my testimony, the answers to which were potentially quite harmful to these parents' cases.

All three cases had much in common. My child custody assessment in each case was by court order. The parents had been separated from their spouses for some time. They each had a young child in the home between the ages of 4 and 6. One parent also had a 2 year-old as well. No one was behaving inappropriately in the presence of the children. Sexual activities were carried out in private. One parent had the new partner sleep over occasionally and the child saw them together having breakfast. Another child was aware that mother and mother's friend shared a bed. The child saw them there in the morning. The children

always saw the adults fully clothed. And in each case there was only one new partner: Holding hands, brief hugs, and brief good-bye kisses, were the only physical contacts seen by the children.

Of major importance was the fact that all three parents had encouraged their children to keep the relationship secret and not talk about the “new friend” when they were with the other parent. In two cases, the relationship started after the separation. In one case, the relationship started before the separation and the child had met the person when she and her parent took trips to the zoo. The child was to keep this observation secret from the other parent.

I have seen many children in this type of evaluation and certainly have had children tell me about secrets they have with mom or dad. Basically, most young children are not very skilled at keeping secrets. But a few apparently are, and these three children said nothing to suggest that they were involved in this deception. Indirect assessment of the children through projective drawings and story telling did not yield anything to raise suspicion. Each parent lied to me when asked directly about this aspect of their life. In two of the cases allegations had been made that the parent had a relationship with another person that had started after the separation. At the time of my involvement, these remained unsubstantiated allegations. All three parents told me that they were rarely dating, that the children were never involved, and they did not have an on-going relationship with anyone.

Hence, I appeared in court ignorant of this important aspect of their lives. And what I believe is most important, I did not have the opportunity to examine what if any impact these relationships might have had on the children. The omission was quite important.

In each case, the other parent’s lawyer presented me with a hypothetical where I was to assume that a parent had a relationship with a person other than the spouse and had instructed the child to keep it a secret. What was the potential impact on the child? The hypotheticals presented different details, but essentially followed the above format, and I was forced to describe the well-known negative impact on children exposed to such parental conflict and deception. Typically, children are struggling with loyalty conflicts when dealing with divorce and the last thing they need is to be involved in some deceptive practice by one of the parents where the child is required to demonstrate greater loyalty to one parent over the other.

The only answer that can be given to such a hypothetical is a generalization from clinical experience and, to some degree, from reports in the professional literature. Even after pointing out that not every child responds negatively, and that every situation has its unique features that might

make the outcome different, the general finding is a negative outcome, usually in terms of symptoms of anxiety in the child. Any appropriate answer to such a hypothetical suggests that the parent is doing harm to the child.

What if I had been told the truth in the first place? When this has happened in other cases, I have had a meeting with the child and the parent where the parent explains that I already know the truth, that the parent has told me all about it, and that there is nothing that the child has to keep secret from me. Then my evaluation of the child proceeds.

Certainly, the evaluation may turn out to be damaging to the parent. I may find that the child’s emotional difficulties are being made worse by the secrecy issue. However, I may also find that a child is minimally discomforted by the secrecy game and, in terms of all measures of emotional adjustment, no harm has been done. The child is doing well in school, maintains friendships, shows no sleeping, eating, or toileting difficulties, no regressive behavior, etc. etc. This type of assessment outcome is certainly possible.

I try to deal with hypotheticals as carefully as possible. I insist on specifying what information missing in the hypothetical would be necessary in order to come to an answer, and if there is too much missing information, I explain why the lack of that information makes it impossible to answer the hypothetical. I explain that such answers are generalizations that although basically true may not be valid for specific cases. But a question that basically deals with an attack on the child’s loyalty to one of the parents has to be answered because the knowledge base clearly indicates a significant risk of a negative outcome. To simply refuse to answer the hypothetical is not a viable option. To do so could suggest bias (i.e., you are protecting one parent).

Do parents understand this issue? I try to explain, in general terms, that it would be best if I could address all possible issues in my evaluation. But as already stated, people do lie when they feel they have to protect themselves. And in the cases I deal with they certainly have reason to feel threatened. I am usually called on when the custody/visitation matter has been made more conflicted by such issues as abuse allegations, spousal kidnapping, incarceration of a parent, etc. It is certainly understandable that a parent may view my role with some anxiety. But when, after-the-fact, I have discussed the problem with some parents, I have been left with the impression that they believed that the worst that could happen would be that my evaluation would be weakened or perhaps discredited by my ignorance of the true facts. They were not aware of the impact of the “fact” being brought into court. Perhaps this is an issue requiring better education of clients by their attorneys.



Children's Law News

CONFERENCES & TRAINING

May 17–24, 2004

NACC 9th Annual Rocky Mountain Child Advocacy Training Institute, Presenting Evidence in Children's Cases.

A hands-on trial skills training for juvenile law attorneys produced in conjunction with NITA, University of Denver College of Law, and the Rocky Mountain Children's Law Center. Brochures will be mailed to all NACC members in early 2004.

For more information, go to NACCchildlaw.org/training/RMCATI.html.

September 7–10, 2004

NACC 27th National Children's Law Conference, Mandalay Bay Resort, Las Vegas, NV. Now accepting presentation abstracts. For more information, contact the NACC or visit NACCchildlaw.org/training/conference.html. Conference Brochures will be available in April, 2004.

PUBLICATIONS

Access to Justice for Children, the 2003 Edition of the NACC Children's Law Manual Series. The manual is 463 pages and includes 25 articles covering a wide range of children's legal issues including The Development of Children's Law and Practice, Making Sensible Post-ASFA Placement Decisions, Youth Empowerment Programs, Juvenile Competence to Stand Trial, Adoption Subsidies, International Custody, Corporal Punishment, Visitation in Dependency Cases, Preparing Caseworkers for Trial, Expert Testimony in Children's Cases, and more. Copies may be ordered from the NACC by calling toll free 1-888-828-NACC or using the Publications Order Form on the back page of this issue.

Treating the Lifetime Health Effects of Childhood Victimization, by Kathleen Kendall-Tackett, Ph.D. Civic Research Institute (CRI) 2003. 609-683-4450. ISBN 1-887554-34-3.

Legal Representation of Children: Recommendations and Standards of Practice for the Legal Representation of Children in Abuse and Neglect Cases, by NACC. This document provides comprehensive guidance to children's attorneys including descriptions of the attorney's role and duties. The NACC encourages jurisdictions and courts to use this publication to create local guidelines that will improve the quality of legal representation in your jurisdiction. To obtain a copy, contact the NACC or use the publication order form in this issue. The two documents contained in this publication are also available online at: www.naccchildlaw.org/training/standards.html.

The Children's Legal Rights Journal (CLRJ) is a quarterly professional practice journal for child welfare, juvenile justice, and family law professionals. Now in its 22nd year, CLRJ is published by William S. Hein & Co., Inc., under the editorial direction of the ABA Center on Children and the Law, Loyola University of Chicago School of Law, and the National Association of Counsel for Children. CLRJ is indexed in the *Current Law Index* and *Index to Legal Periodicals* and runs approximately 60 pages per issue. The annual subscription rate is \$67 but is available to NACC members at a 30% discount (\$47 annually). To subscribe, contact Hein toll free at 800-828-7571, ISSN 0278-7210, or contact the NACC for more information.



NACC's Better Public Policy for Children, Youth and Families—An Advocacy Guide, by NACC Policy Representative Miriam Rollin. A comprehensive guide to policy advocacy for children and families. Available on line at www.NACCchildlaw.org/policy/policy_guide.html, or call the NACC at 888-828-NACC.

Adolescent Brain Development and Legal Culpability, ABA Criminal Justice Section / Juvenile Justice Center, Spring 2003. www.abanet.org/crimjust/juvjus/. 202-662-1506.

Lawyer-Guardian Ad Litem Protocol (Michigan). For more information contact Tobin Miller at millert@courts.mi.gov.

The Child Witness in Criminal Cases, ABA 2002. Contact ABA Criminal Justice Section, 740 15th St. NW, Washington, DC 2005.

New Hope for Preventing Child Abuse and Neglect (Proven Solutions to Save Lives and Prevent Future Crime), by Fight Crime: Invest in Kids, Washington, DC. www.fightcrim.org.

Emerging Practices in the Prevention of Child Abuse and Neglect, by NCCAN and NAIC 2003. Free online at nccanch@calib.com or 800-fyi-3366.

Child Abuse and Neglect: Guidelines for Identification, Assessment and Case Management by Peterson and Durfee. Volcano Press 2003. sales@volcanopress.com. 209-296-4991.

NEWS

2003 NACC Outstanding Legal Advocate Winners

The National Association of Counsel for Children (NACC) is pleased to announce that **Theresa Spahn**, Executive Director of the Colorado Office of the Child's Representative (OCR) and

The University of Miami Children and Youth Law Clinic have been named recipients of the NACC's 2003 *Outstanding Legal Advocacy Award*.

Theresa Spahn, a former practicing attorney and juvenile court magistrate, became Executive Director of the newly formed OCR in Denver in 2001. The OCR is a state agency created to provide high quality legal representation for children. In the course of 2 years, Ms. Spahn turned the concept of the OCR into a reality. Under her leadership, the OCR evaluated the quality of representation of children by traveling to each of Colorado's 22 judicial districts, assessing performance and needs, and setting up local oversight committees. Once a centralized system was in place, the process of obtaining qualified attorneys and providing training and technical assistance began. Among the most notable accomplishments in this process is the conversion of attorney pay from a flat fee system which discouraged effective representation to an hourly rate which recognizes the value of legal representation for children and encourages the delivery of the full benefit of legal services to children. Because of the work of Theresa Spahn and the OCR, Colorado is on its way to providing premier legal service for children.

Since its founding 8 years ago, **The University of Miami Children and Youth Law Clinic** has improved the quality of services to Florida's vulnerable youth by zealously advocating for children's legal rights. The Clinic, directed by Bernard Perlmutter and Carolyn Salisbury, has been instrumental in improving immigrant rights of foster children, independent living services for foster children, and educational rights for children with disabilities. In the last year, the Clinic won a five-year battle to provide due process for abused and neglected children facing commitment to locked mental health facilities. In addition to these improvements achieved through litigation, the Clinic faculty and students have been actively involved in bar and community activities to improve the lives of Florida's children and youth.

NACC 2003 Law Student Essay Competition **Cynthia Donley Young** is the winner of the NACC 2003 Law Student Essay Competition for her essay *International Adoption in Cases of Children Separated from their Parents by War*. Ms. Donley Young graduated this year from Washington & Lee University School of Law. The article appears in the NACC 2003 Children's Law Manual.

NACC Founder and Board Member Emeritus Donald C. Bross, JD / Ph.D. was named the recipient of the 2003 Commissioners Award from the US Dept. of HHS Children's Bureau for outstanding leadership and service in the prevention of child abuse and neglect. Dr. Bross is legal counsel and director of education at the Kempe Children's Center in Denver.

The Uniform Child Witness Testimony by Alternative Methods Act, approved by NCCUSL August, 2002 was adopted by the ABA on February 10, 2003. The NACC is in the process of adopting a uniform code which may include provisions of this act. The text of the act is available at <http://www.law.upenn.edu/bl/ulc/ucwtbama/2002final.htm>.

Join the NACC Children's Law Listserv Information Exchange. All NACC members are encouraged to become part of the NACC Listserv which provides a question, answer and discussion format for a variety of children's law issues. It is an excellent way to improve your advocacy skills and share your expertise with your NACC colleagues. To join, simply send an e-mail to advocate@NACCchildlaw.org and say "Please add me to the NACC Listserv."

NACC – Members Get Members Program!

EARN "NACC BUCKS" BY NOMINATING YOUR COLLEAGUES FOR MEMBERSHIP!

Participate in the NACC "Members Get Members" program and earn valuable NACC Bucks redeemable on your NACC member dues, publications and conferences. For every prospect who becomes an NACC member, you will receive 20 NACC Bucks. Save 100 NACC Bucks and receive a complimentary registration to the NACC Annual National Children's Law Conference (a \$300 value).

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Mail to: NACC Membership, 1825 Marion Street, Suite 340, Denver, CO 80218

NACC Web Site / Member Directory Now Open to Public. Visit the NACC's member services web site at www.NACCchildlaw.org. The site is comprised of four sections: About the NACC; Technical Assistance and Training; Children and the Law; and Policy Advocacy. The site includes members-only sections that allow you special access to resources. Passwords are mailed to all NACC members with their welcome packets. Contact the NACC if you don't know your password. Additionally, the NACC online membership directory, formerly a member only section, is now open to the public. Please contact the NACC if you do not want your listing made public.

The NACC National Child Advocacy Resource Center is available for member use. The Resource Center provides referrals, resource information, and consultation. NACC members may access the resource center online (www.NACCchildlaw.org), by phone (toll-free 1-888-828-NACC), fax (303/864-5351), and e-mail (advocate@NACCchildlaw.org).

NACC Members Get Members Program. Earn "NACC Bucks" by nominating your colleagues for membership. Participate in the NACC "Members Get Members"

program and earn valuable NACC Bucks redeemable on your NACC member dues, publications, and conferences. For every prospect who becomes an NACC member, you will receive 20 NACC Bucks. Save 100 NACC Bucks and receive a complimentary registration to the NACC Annual National Children's Law Conference (a \$300 value). Complete and return the form on page 13 of this issue and start earning now.

AMICUS CURIAE ACTIVITY

In re Pamela G., New Mexico Court of Appeals. The NACC filed a brief in support of the New Mexico Children, Youth and Families Department, discussing the admissibility of a child's out of court statements under the residual hearsay exception. In this sexual abuse case, the four year old's out of court statements to various professionals and her foster mother was the Department's main proof, and the respondents' challenged it under the Confrontation Clause. The NACC brief addressed what due process parents are entitled to in civil child abuse and neglect hearings. The Court of Appeals is considering the NACC's request for permission to file as amicus, and a decision should be reached shortly.

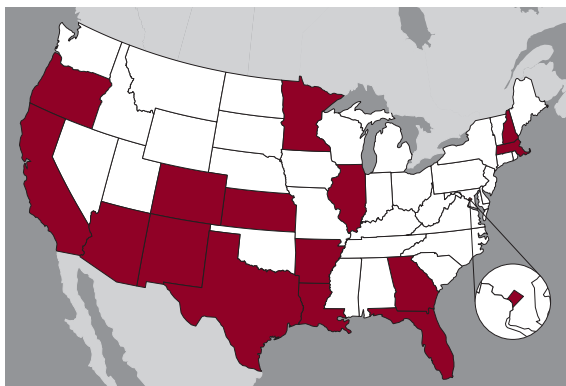
JOBS

Juvenile Law Center-Zubrow Fellowship In Children's Law The Juvenile Law Center is offering the Sol and Helen Zubrow Fellowship In Children's Law. The Zubrow Fellow will work at JLC in Philadelphia, PA. JLC combines individual case work, litigation, public policy formation and public education to advance the rights and well-being of children in jeopardy. The Fellow will be provided with an annual salary of \$37,500, plus health care benefits, disability insurance and life insurance, as well as a program for loan repayment assistance. Applicants who are in their final year of a graduate degree program in law or who are judicial law clerks may apply. Please note that attorneys who have already worked after law school, in either the public interest or private sectors, will not be considered. For more information, please go to http://www.jlc.org/home/updates/opportunities_links/fellowships.html.

Visit the NACC Child Law and Advocacy National Job Web Site.

You can access the information online at www.NACCchildlaw.org/childrenlaw/jobs.html. If you wish to post a job on the web site, follow the online directions or call the NACC at 1-888-828-NACC.

If you have "Children's Law News," please send it to: *The Guardian*, 1825 Marion Street, Suite 340, Denver, CO 80218
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Affiliate News

NACC affiliates help fulfill the mission of the national association while providing members the opportunity to be more directly and effectively involved on the local level. If you are interested in participating in NACC activities on the local level, or simply want contact with other child advocates, please contact the affiliate in your area. If there is no affiliate in your area and you would be interested in forming one, please let us know. The formation of an NACC affiliate is simple, and we can provide you with an affiliate development packet to get you started. Affiliate development materials are available on our website at www.naccchildlaw.org/about/affiliates.html.

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CALIFORNIA**Northern California Association of Counsel for Children (NCACC)***

Recipient of the NACC
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Families and the Courts
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Email: Christopher.Wu@jud.ca.gov

Los Angeles Affiliate of the National Association of Counsel for Children (LANACC)*

Recipient of the NACC
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Tamatha Schreinert, President
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Email: schreinertt@dclsinc.org

LANACC produced "Important Telephone Numbers and Dependency Court Lingo" to help children in foster care navigate the system. The pamphlet, along with "Foster Care Rights" is placed in each courtroom and given to all children over 10. Support for the publications comes from In-N-Out Burger Foundation.

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TEXAS

Congratulations to the Central Texas and Houston affiliates, both of which received their charter approvals at the NACC 2003 Annual Meeting.

Central Texas Association of Counsel for Children (CTACC)*

Bree Buchanan, President
727 East Dean Keeton Street
Austin, TX 78705
Phone: 512/232-1293
Email: Bbuchanan@mail.law.utexas.edu
CTACC will hold its first CLE Training October 9, 2003 in Austin. Contact Bree Buchanan for more information.

Houston Association of Counsel for Children / Student Chapter (HACC)***

Ellen Marrus, Faculty Advisor
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Email: Emarrus@uh.edu

WASHINGTON, DC**Washington DC Metro Chapter of NACC***

Anne E. Schneiders, President
2828 Wisconsin Avenue NW, #314
Washington, DC 20007
Phone: 202/363-7916 Fax: 202/244-7693
Email: aeschild@aol.com

* Officially Chartered NACC Affiliate

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NACC Affiliates are encouraged to send announcements and news of their activities and meetings to The Guardian.

Deadlines for submission are February 1, May 1, August 1, and November 1.

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